

# Project Operator's Application For Income Tax Exemption

North Dakota Century Code ch. 40-57.1

File with the State Board of Equalization, Office of State Tax Commissioner,  
600 E. Boulevard Ave., Dept, 127, Bismarck, ND 58505-0599.

**This application is a public record.**

## Identification Of Project Operator

1. Name of project operator \_\_\_\_\_

2. Address of project \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_

3. Mailing address of project operator \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

4. Type of ownership of project

☐ Partnership

☐ Subchapter S corporation

☐ Individual proprietorship

☐ Corporation

☐ Cooperative

☐ Limited liability company (LLC)

If an LLC, how will this entity be taxed at the federal level? ☐ Corporation ☐ Partnership

5. Federal Identification No. or Social Security No. \_\_\_\_\_

6. North Dakota Sales and Use Tax Permit No. \_\_\_\_\_

7. List the North Dakota counties in which the project operator has an interest in real property

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8. If a partnership, subchapter S corporation or limited liability company, indicate the number of partners, shareholders or members \_\_\_\_\_

9. If a corporation, specify the state and date of incorporation \_\_\_\_\_

10. If a partnership, list all general partners; if a corporation or association, list the corporate officers or association directors charged with the responsibility for filing property, income, or sales and use tax returns and making payments. List all the North Dakota counties in which each individual listed has an interest in real property (attach additional sheets if necessary).

Name and Social Security No.	Address	County(ies)
SSN _____		
SSN _____		
SSN _____		

11. Name and title of individual to contact \_\_\_\_\_

Mailing address \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Phone No. \_\_\_\_\_

## Description of Project Business

**Note: "Project" means a newly established primary sector or tourism business or the expansion portion of an existing business. Do not include any established part of an existing business.**

12. Describe in detail the enterprise of the project operator, including a description of any products to be manufactured, produced, any value-added service to be rendered, or any tourism destination attraction. Also identify the estimated percentage of projected revenues from retail, wholesale and distributor sales (attach additional sheets if necessary).

13. Indicate the type of machinery and equipment that will be installed

14. Approximate date of commencement of this project's operations \_\_\_\_\_

15. Projected annual revenue, expense, and net income of the project for each year of the requested exemption

Year	20_____	_____	_____	_____	_____
Annual revenue	_____	_____	_____	_____	_____
Annual expense	_____	_____	_____	_____	_____
Net income	_____	_____	_____	_____	_____
Percent of project's sales made in ND	_____	_____	_____	_____	_____

16. Projected annual average number of persons to be employed by the project at the project location for each year of the requested exemption and the estimated annual payroll — (1) is for full-time employees, and (2) is for part-time employees

Year	20_____	_____	_____	_____	_____
No. of Employees	(1) _____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____
Estimated payroll	(1) _____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____
Percent of payroll that will be paid to ND employees	(1) _____	_____	_____	_____	_____
	(2) _____	_____	_____	_____	_____

17. Project property (*Leave blank if project is owned by an individual operating as sole proprietorship*):

Estimated percent of total property owned by the project operator ..... \_\_\_\_\_.

Estimated percent located in North Dakota ..... \_\_\_\_\_.

### Project Operator's Application For Exemption

18. Number of years for which an income tax exemption is requested \_\_\_\_\_
19. Indicate the percentage of income from the project for which the exemption is requested.  
The maximum percentage allowable is 100% of the income attributable to the project. \_\_\_\_\_ Percent
20. Which of the following would better describe the project for which this application is being made?  
☐ New business project ☐ Expansion of a business project

Describe the extent of the expansion

### Previous Business Activity

21. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☐ No

If YES, give details including location and name of former business

22. Has the project operator conducted this business at this or any other location either in or outside of the state?  
☐ Yes ☐ No

If YES, dates of operation and location

### Business Competition

23. Is any similar business being conducted by other operators in the state? ☐ Yes ☐ No

If YES, give name and location of competing business or businesses

24. If a property tax exemption was granted to this project by a municipality under N.D.C.C. ch. 40-57.1, did anyone oppose the granting of the exemption? ☐ Yes ☐ No

If YES, list name of person or business and nature of objection (attach additional sheets if necessary)

**Use Only When Reapplying**

25. The project operator is reapplying for an income tax exemption for the following reason(s):

- ☐ To present additional facts or circumstances which were not presented at the time of the original application
- ☐ To request continuation of the present income tax exemption because the project has:
  - ☐ moved to a new location
  - ☐ had a change in project operation

**Employment Statement And Signature**

As project operator, I am aware of the policy with regard to the employment of North Dakota contractors and North Dakota workers adopted by the members of the State Board of Equalization. (See attached.) By presenting this signed application for an income tax exemption, I am aware that, unless I give employment to North Dakota contractors and workers to the maximum extent possible, the exemption may be revoked.

I, \_\_\_\_\_, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory pursuant to North Dakota Century Code §§ 40-57.1-04 and 40-57.1-07. An individual's social security number is used as an identification number by the Office of State Tax Commissioner for file control purposes and recordkeeping.

**For Use By The Department Of Commerce Division Of Economic Development And Finance**

The Department of Commerce Division of Economic Development and Finance, after examination and review of this application, finds that the project in this application \_\_\_\_\_ met the qualifications of \_\_\_\_\_ has/has not being either a primary sector business or tourism-related destination attraction for the following reasons:

\_\_\_\_\_

Signature

\_\_\_\_\_

Title

\_\_\_\_\_

Date

# ***North Dakota Income Tax Exemption for New or Expanding Businesses***

## **General Instructions**

### **Who Qualifies**

Any project operator who is engaged in a new or expanding primary sector business or tourism may qualify for the income tax exemption.

### **Definitions**

*Commencement of project operations* means the date the plant actually goes into its planned operations, which begin when management or employees undertake the tasks that are intrinsic to the conduct of business.

*Primary sector* means a business which adds value to a product, process, or service that results in the creation of new wealth. New wealth means revenues to a North Dakota business generated by sales of products or services to customers outside North Dakota, or revenues to a North Dakota business from sales in North Dakota, if the product or service was previously unavailable or of limited availability.

*Project* means a primary sector business or tourism. The term is limited to a newly established business or the expansion portion of an existing business. It does not include any part of an existing business.

*Project operator* means the individual, corporation, partnership, limited liability company, or association that owns or operates the project.

*Tourism* means any tourism-related business that is a destination attraction.

### **Limitations**

A project is not eligible for this exemption if any of the following conditions exist:

1. The project received a property tax exemption under the tax increment financing statute, N.D.C.C. § 40-58-20(11).
2. The project operator has an unsatisfied tax lien of record for any delinquent property, income, sales, or use taxes owed to the state or any political subdivision.

If the project operator is a partnership, corporation or limited liability company, the above tax lien condition applies to any general partner, officer, governor, or manager having the responsibility for filing the tax returns or paying the taxes to which the tax lien relates.

### **Allowable Exemption**

The income tax exemption consists of a partial or complete exemption from taxation of the net income attributable to the project. In the case of an expansion project, only the net income attributable to the expanded portion of the business is eligible for exemption. The exemption may be granted for up to five years following the commencement of project operations. See N.D. Administrative Code § 81-03-01.1-06 for the rules on how to calculate the amount of net income that is exempt.

The project operator must file any required state income tax return even though the exemption is granted. For tax years beginning before January 1, 2003, this exemption is not allowed to an individual who calculates the income tax under N.D.C.C. § 57-38-30.3 (which is implemented on Form 37-S and Form ND-1).

### **Application Procedures**

The project operator files the application with the State Board of Equalization in care of the Office of State Tax Commissioner, 600 E. Boulevard Ave., Dept. 127, Bismarck, ND 58505-0599. The application must be filed within the first year following the commencement of project operations.

The State Board forwards the application to the Department of Commerce Division of Economic Development and Finance for its review and recommendation as to the eligibility of the project as a primary sector business or tourism.

The project operator provides notice to competitors as prescribed by the State Board.

The State Tax Commissioner certifies to the State Board whether the project operator has any tax liens of record for any delinquent property, income, sales, or use taxes owed to the state or a political subdivision.

The State Board holds a public hearing, considers the impact and effect the exemption would have on existing business, and then grants or denies the application for exemption.

The State Board provides written notification of the Board's decision to the applicant and the Tax Commissioner.

## ***Policy For The Full Employment Of North Dakota Workers For New and Expanding Businesses Seeking Tax Exemptions***

The State Board of Equalization, in recognition of the intent of the Legislature to add "to the volume of employment" and to alleviate "unemployment among the people of the state," hereby adopts the following policy to be followed regarding all new and expanding businesses seeking tax exemptions under North Dakota Century Code ch. 40-57.1.

1. State or local governing bodies negotiating with new or expanding businesses for tax exemptions under N.D.C.C. ch. 40-57.1 are required as part of such negotiation to request maximum employment of North Dakota contractors and workers in both the construction and the operation phases of a new or expanding business.
2. Any application for tax exemption must contain a statement thereon that both the governing body and the new industry or expanding business concerned have discussed the employment of North Dakota contractors and workers to the maximum extent possible, and the applicant acknowledges that tax exemptions are based in part on such policy.
3. The local governing body and the State Board of Equalization shall take into consideration in granting an exemption to a new or expanding business the employment of North Dakota contractors and workers, to the extent they are available and fully qualified, in both the construction and operation phases of the new or expanding business.
4. Any new or expanding business granted a tax exemption under N.D.C.C. ch. 40-57.1 that does not fulfill the commitment it has made regarding the employment of North Dakota contractors and workers in both the construction and operation phases of the new or expanding business will be subject to revocation of the balance of its income tax exemption from the date of the breach of its agreement.
5. Complaints about the implementation of a commitment of a new or expanding business to employ North Dakota contractors or workers shall be handled by a mediation committee composed of three persons appointed by the State Board of Equalization. One member shall represent the new or expanding business, one member shall represent the governing body concerned, and a third member shall represent the interests of North Dakota contractors or workers. The mediation committee will report its findings to the State Board of Equalization.

Adopted by the State Board of Equalization  
August 3, 1993.